IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 18.12.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Writ Appeal No.2100 of 2003

Best & Crompton Engineering
Employees' Union,
(Regd No.1030) rep. by its
General Secretary,
202/4, Pillaiyar Koil Street,
Mannurpet,
Chennai-600 050. ... Appellant/3rd Respondent.

Vs.

1.The Management of Best &
Crompton Engineering Ltd.,
39, Industrial Estate (North),
Ambattur, Madras-600 098.

2.N.V.Kuppusamy,
No.1, Banu Avenue,
Tambaram Sanitorium,
Chennai-600 047.

3.The Presiding Officer,
I Additional Labour Court,
Madras-104. .. Respondents /2nd Respondent
Petitioner and 1st Respondent.

Writ appeal filed under Clause 15 of the Letters Patent against the order dated 29.01.2002 made in W.P.No.2032 of 1998

W.P.No.2032 of 1998 : Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified mandamus calling for the records from the file of the 1st Respondent in CP.No.187 of 1993 dated 29.10.1997 and quash the order and direct the second and third respondent to pay the sum of Rs.10,500/- beign the Death/Retirement benefit with interest at 12% per annum from 24th July 1992.

For Appellant : Mr.D.Hariparanthaman
For 1st respondent : Mr.V.Karthik for
M/s T.S.Gopalan
For 2nd respondent : Mr.D.Nagasaila

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JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

Aggrieved by the order dated 29.01.2002 made in W.P.No.2032 of 1998 of the learned single Judge, Best and Crompton Engineering Employees' Union, Chennai, through its General Secretary (third respondent in the writ petition), has filed the above writ appeal.

2. Heard the learned counsel for the appellant as well as respondents 1 and 2.

3. Considering the limited issue raised and the order to be passed hereunder, we are of the view that it is unnecessary to refer to all the factual details as stated by the petitioner and respondents 1 and 2. It is the grievance of the appellant Union that the settlement does not contemplate payment of Rs.10,500/- to each workman or individual workman and the learned single Judge failed to see that the application under Section 33(c)(2) of the Industrial Disputes Act made by the second respondent herein, the writ petitioner, was not at all maintainable. Considering the limited question, we have verified the terms of agreement, the order passed by the Labour Court as well as the learned single Judge, which is under challenge in this appeal. The factual details furnished before the learned single Judge show that the second respondent-writ petitioner was a member of the third respondent Union, the appellant herein, at the time of the 12(3) settlement and he was also affected by the rationalisation of the Dearness Allowance, to which amount he is entitled, which is payable by the Management.

4. Before the learned single Judge, though it was urged that the petitioner withdrew his membership from the Union (appellant herein) during September, 1994 and he is not entitled for the benefit under the scheme, the learned single Judge, on consideration of the materials, arrived at a factual conclusion that the writ petitioner was a member of the third respondent Union when the settlement under Section 12(3) of the Act came to be implemented. It was also brought to the notice of the learned single Judge that the writ petitioner was paid a proportionate amount out of Rs.8,130/- as per terms of settlement by the Management through the Union. It was also highlighted before the learned single Judge that Management had paid a sum of Rs.10,500/- per month to the Union as death cum retirement benefit and based on the same, the learned single Judge has arrived at a conclusion that it is the responsibility of the third respondent Union-appellant to see that the death-cum-retirement benefits are paid in favour of the eligible persons concerned. Taking note of all the factual details, the learned single Judge has directed the third respondent Union-appellant, which had undertaken to do the work of paying its members the said amount, to pay the amount of Rs.10,500/- to the writ petitioner-second respondent, to

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which he is entitled, towards death-cum-retirement benefits.

5. Though several hurdles were projected before us, in the light of the factual details as stated in the order of the learned single Judge and taking note of the amount involved viz., Rs.10,500/- , we are of the view that ends of justice would be met by apportioning the amount in the following manner :

> The appellant Union, the third respondent in the writ petition, is directed to pay a sum of Rs.2,500/- to the second respondent herein, viz., the writ petitioner, and the balance of Rs.8,000/- is to be paid by the Management, viz., first respondent in this appeal.

The amount as mentioned shall be paid by both the parties within a period of two weeks from the date of receipt of a copy of this order.

6. The writ appeal is disposed of on the above terms. No costs. It is made clear that the above order shall not be cited as a precedent for other claims.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

raa

To

The Presiding Officer,
I Additional Labour Court,
Madras-104.

+ 1 CC To M/s.D.Nagasaila, Advocate SR NO. 63528

+ 1 CC To M/s.T.S.Gopalan, Advocate SR NO. 63393

+ 1 CC To Mr. D.Hariparanthaman, Advocate SR NO.63548

W.A.No.2100 of 2003

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Gp/20.12.

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